

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JESSE MEANS,)	
)	
Plaintiff,)	CIVIL ACTION NO. 05-107E
)	
v.)	HON. SEAN J. McLAUGHLIN
)	U.S. DISTRICT JUDGE
UNITED STATES OF AMERICA,)	
<u>et al.</u> ,)	HON. SUSAN PARADISE BAXTER
)	U.S. MAGISTRATE JUDGE
Defendants.)	
)	ELECTRONICALLY FILED

DEFENDANTS' MOTION FOR EXTENSION OF DISCOVERY PERIOD

AND NOW, come Federal Defendants, the United States of America, et al., through counsel, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Paul D. Kovac, Assistant United States Attorney for said district, and, pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, respectfully move the Court for a 60-day extension of the discovery period. Currently, discovery in this case is scheduled to close on September 7, 2006. The granting of this request would extend the discovery until November 6, 2006. In further support of this Motion, Defendants aver as follows:

1. Plaintiff, a federal prisoner, filed a Complaint pursuant to the Federal Tort Claims Act alleging that he sustained injuries due to a leaky roof at the prison that caused him to slip and fall. Plaintiff has also alleged that prison medical staff have been indifferent to his medical needs.

2. The pro se Plaintiff has not taken any discovery in this case. Defendants, on the other hand, have already interviewed numerous witnesses at FCI McKean and have taken Plaintiff's deposition. Moreover, Defendants have sent out numerous requests for Plaintiff's medical documents from various civilian physicians who treated him after his fall. Many of these documents have still not been received, and additional time is needed to obtain this documentation.

3. The parties also engaged in settlement negotiations and had a tentative agreement in place subject to final approval by BOP officials. However, in a phone call on September 5, 2006, Plaintiff indicated that he no longer was interested in the settlement and that he would rather proceed to trial. Accordingly, due to the breakdown in settlement negotiations, additional time is needed to conduct further discovery and prepare the case for a potential trial.

4. During his deposition, Plaintiff alleged injuries to his neck and head as a result of his alleged fall. In order to rebut these allegations, Defendants have begun the process of obtaining a medical expert who can review medical documentation and perhaps even conduct an examination of Plaintiff in order to determine the extent of his injuries and offer additional evidence on the issue of causation. Additional time is needed to obtain Department of Justice approval to hire an expert and

conduct a review of this case. Moreover, Defendants may request a Rule 35 examination of Plaintiff which also would require an extension of the discovery period and involve the transport of Plaintiff to a doctor's office which will most likely be in Pittsburgh or Erie.

5. The granting of an extension of the discovery period will in no way prejudice Plaintiff, who is proceeding in this case pro se.

WHEREFORE, Federal Defendants respectfully request that the Court issue an Order extending the discovery period by 60 days, or until November 6, 2006.

A proposed Order is attached.

Respectfully submitted,

MARY BETH BUCHANAN
United States Attorney

s/Paul D. Kovac
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Dated: September 6, 2006

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Defendants' Motion for Extension of Discovery Period was electronically filed and mailed, postage-prepaid, this 6th day of September, 2006, to the following:

Jesse Means, Plaintiff *pro se*
Reg. No. 38021-060
FCI McKean
Post Office Box 8000
Bradford, PA 16701

s/Paul D. Kovac
PAUL D. KOVAC
Assistant U.S. Attorney